

Mr. John S. Williamson, *Sui Juris*, &
Mrs. Nancy L. Williamson, *Sui Juris*,
(Federal Witnesses, as per
18 USC 1510, 1512-13.)
1277 Historic Rte. 66E.
Tijeras [87059]
New Mexico, USA

FILED
06 NOV 13 AM 10:29
CLERK ALBUQUERQUE

In Propria Persona, 28 USC 1654
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IN THE DISTRICT COURT FOR THE UNITED STATES
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,
Internal Revenue Service,
Plaintiffs
v.

CIVIL NO. 04-CV-0885 BB/WDS

John S. Williamson;
Nancy L. Williamson;
John G. Williamson;
David A. Williamson;
Garrett J. Williamson;
"Debra Kruhm";
Defendants

PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Comes now, Sovereign New Mexico Citizens John S. Williamson, Nancy L. Williamson, John G. Williamson, David A. Williamson, Garrett J. Williamson, and Deborah Kruhm, (exclusive of New Mexico Taxation and Revenue Department), by birth, *non-taxpayers*, free persons appearing *specially* and not *generally*, to make this formal Demand upon the "United States" to file into the official Court record of the

above entitled case, certified documentary evidence of the following, and to provide formal notice to all interested parties of same:

PROPOSED FINDINGS OF FACTS

1. Plaintiff's Exhibits 1 through 9, IRS Forms 4340 as attached to the COMPLAINT, are **NOT** valid CERTIFICATES OF ASSESSMENT. These are essentially the same as Defendants Exhibits A 1-7. All Ms. Setear did was sign a statement claiming to "certify" that her hard copy printouts accurately reflect data, which she obtained by quering an IRS computer database. However, in doing so she failed to "certify" anything under penalties of perjury as required by IRC 6065. Charmain Setear is listed as a "Supervisor Accounting Technician". This position is not an "assessment Officer". See **26 CFR 301.6203-1**.
2. Plaintiff's Exhibits 10 through 18, as attached to the COMPLAINT are **NOT** valid NOTICE OF FEDERAL TAX LIENS. IRC section **6065** requires such forms to be signed under penalties of perjury, none are.
3. Plaintiff's Exhibits 10 through 18 explicitly state on their face authority under **IRC section 6331**. **IRC 6331(a)** explicitly "includes" only federal officers and absolutely "excludes" all private Citizens of the republic 50 States of the Union.
4. There is no NOTICE OF FEDERAL TAX LIEN in evidence before this court identifying the 31 Ben Road property.
5. Plaintiff **UNITED STATES OF AMERICA** [sic] failed to appear and prosecute his case. (COMPLAINT page 1.) Plaintiff **UNITED STATES OF AMERICA** [sic] lacks capacity and standing to sue or be sued. (COMPLAINT page 1.) (MOTION TO DISMISS page 3 at #4.)

6. Plaintiff **United States of America** [sic] lacks capacity and standing to sue or be sued. (COMPLAINT page 3.) Plaintiff **United States of America** [sic] is simply the union of the 50 republic States of America.
7. Plaintiff stood silent when challenged that the Internal Revenue Service is/was ever a bonafide Department of the United States Department of the Treasury. See Title 31 *in toto*, and *Chrysler Corp. v. Brown*, 441 U.S. 281 (1979), foot note 23. (MOTION TO DISMISS page 4 at # 8)
8. Third Plaintiff, **United States**, [sic] (implying the federal government), does have Congressional grant of capacity and standing to sue and be sued. (COMPLAINT page 3.)
9. Plaintiff alleged authority to bring this lawsuit under **IRC sections 7401, 7402, and 7403**. (COMPLAINT PAGES 1 & 3.)
 - A.) IRC section 7401 has no jurisdiction clause. Therefore, it conveys no jurisdiction.
 - B.) IRC section 7402 contains an **explicit** grant of jurisdiction to the *district courts of the United States*, not to the United States District Court. Copy from Vol. 2 CCH Internal Revenue Code attached to MOTION TO DISMISS.
 - C.) IRC section 7403 contains an **explicit** grant of jurisdiction to the *district courts of the United States*, not to the United States District Court. Copy from Vol. 2 CCH Internal Revenue Code attached to MOTION TO DISMISS.
10. Judge Bruce D. Black's Court proudly displays two (2) large seals loudly proclaiming "*United States District court.*"

11. UNITED STATES DISTRICT COURT, is a territorial court, established under Article IV where summary proceedings predominate. Judge Black's court is NOT a Constitutional Article III court.
12. Judge Black and this court lacked jurisdiction from August 4, 2004 to the present to even consider this matter.
13. The Defendants challenged the jurisdiction of this court from the beginning and in almost every pleading filed.
14. Summary judgments # 1 and 2, made by Judge Black were made without jurisdiction and are therefore invalid for any purpose.
15. The Defendants have a right to a jury trial guaranteed by the 7th, 9th and 10th Articles of Amendment to the Constitution and the Constitution for the State of New Mexico.
16. Judge Black ruled from the bench that cases involving "fraudulent transfers of property are not entitled to a jury trial" without citing any statute that overturns the Constitutional mandate.
17. Plaintiff failed to establish his allegation that the property was "transferred fraudulently".
18. Defendants demanded a jury trial from the INITIAL PRE-TRIAL REPORT, and the first ANSWER AND COUNTERCLAIM.
19. Defendants have a Right to **DUE PROCESS OF LAW** under the 4th and 5th Articles of Amendment to the Constitution and the Constitution for the State of New Mexico.

20. Plaintiff failed to cooperate in discovery, Defendants moved this court to compel Plaintiff and this court improperly denied the motion.
21. This **USCD** territorial court failed to protect these Defendants from abusive and harassing depositions after being noticed and motioned for a FRCvP 26, protective order under the rules. This court is not an unbiased Constitutional Article III court.
22. The Internal Revenue Code is “municipal law” applicable only to Washington, D.C. and the Territories. See **Treasury Decision 2313** defining the Brushaber case, ***Brushaber v. Union Pacific Railroad Co.***, 240 U.S. 1 (1916).
23. The definition and meaning of “**U.S. Individual**” is easily derived from definitions in IRC section 7701 to mean a citizen of the United States i.e. Washington, D.C., the territories or a “resident alien” thereof. **The Defendants are neither.** Plaintiff stood silent when challenged to exhibit proof that Defendants were/are “taxpayers” i.e. federal citizens.
24. Plaintiff **United States** failed to establish that it is a “creditor to the Defendants” and in the alternative that the Defendants are “indebted” to the Plaintiff. Nothing is in evidence showing Plaintiff advanced any manner of “credit” toward Defendants.
25. Plaintiff **United States**, failed to exhibit a valid and lawful **U.C.C. LIEN FILING** with the New Mexico Secretary of State as required under New Mexico law.
26. Plaintiff’s Exhibits 10 through 18 are merely “**NOTICES OF FEDERAL TAX LIENS**” and do not create an actual lien.

27. Plaintiff **United States** and the **Internal Revenue Service** have NEVER rebutted or refuted a single fact contained in Defendants Exhibits H 1-9, I 1-9 and J 1-9, attached to Defendants ANSWER, COUNTERCLAIM AND JURY DEMAND Doc #s 2, 11, 32.
28. Internal Revenue Service personnel made and filed illegal “substitute for returns” in the Defendant’s files. These “substitute for returns” contained no figures or calculations and are unsigned by the preparer and are therefore invalid for any reason.
29. The Internal Revenue Service personnel assessed taxes in the amount of \$0.00 for the Defendants for each year in question.
30. Judge Black pays “federal income tax” in violation of the Constitution at Article III section 1., and therefore is a witness and disqualified from hearing any and all “income tax” cases, including this case. See decision in EVANS v. GORE, 253 U.S. 245 (1920).
31. No valid **NOTICE OF ASSESSMENT AND DEMAND FOR PAYMENT** is in evidence before this court. Plaintiff stood silent as Nancy Williamson was cross-examined testifying that none have ever been received, none have ever been seen. **MERTINS LAW OF FEDERAL TAXATION** verifies that the proper form for the **NOTICE OF ASSESSMENT AND DEMAND FOR PAYMENT** is Form 17A. Under Freedom of Information Act requests, the IRS stated “no documents responsive to the request can be found”. See *Blackstone et.al. v. United States of America*, 778 F.Supp. 244 [D.Md. 1991] “Without a valid *notice and demand*, there can be no tax lien; without a tax lien, the IRS cannot levy against the

‘taxpayers’ property” Citing Myrick v. United States, 296 F.2d. 312 (5th Cir. 1961). (Emphasis added)

32. David Iglesias and Waymon G. DuBose, Jr. dba United States Attorney and Assistant United States Attorney respectively, do not have powers of attorney to represent Plaintiff **UNITED STATES OF AMERICA**, [sic] in a willful misrepresentation in violation of the McDade Act.
33. The Internal Revenue Service is an **Unreliable** source of information about tax law, specifically “income tax law”. When asked under discovery to cite the statutory authority and the regulatory authority for “kind of tax 1040” Waymon G. DuBose, Jr., directed Defendants to “see Title 26 Subchapter A” which says nothing about “kind of tax 1040”. (See Defendants Exhibits AA-AD attached to Defendants Opposed Motion to Appear and Show Cause, Document # 45).
34. **Internal Revenue Code Subchapter A** is effectively connected to **26 CFR 1.1-1**. The IRS applied for and received Office of Management and Budget number 1545-0067 for **Form 2555** to comply with **regulation at 26 CFR 1.1-1**. This is **not** the number on **Form 1040**.
35. The Defendants made timely and proper notice of their objections to the taking of depositions. Depositions were/are irrelevant and were made strictly for the purpose of intimidation and harassment.
36. The Defendants do not and never have had lawfully reportable “income” as defined under the IRC under Subchapter A or any other chapter of the IRC. The word “income” is not defined in the IRC, therefore Defendants and this court

- must look to what the United States Supreme Court has ruled that the word means. (See *Merchant's Loan & Trust Co. v. Smietanka*, 255 US 509, [1921])
37. The United States Supreme Court is a reliable source of information about law.
38. Plaintiff alleged but could never substantiate that John S. Williamson ever “wrote a check” to pay the State and county taxes on the land. Plaintiff was never able to exhibit any proof of where the money to pay these taxes on the land came from.
39. Waymon G. DuBose, Jr. argued for Plaintiff that these Defendants were “insolvent” insinuating that since they had “transferred” three pieces of land to their children that they were unable to pay “income taxes”. Waymon G. DuBose destroyed his own line of argument at this point, by questioning why the defendants bought the 1277 Old Highway 66E. property with “cash in hand” in 1985 or 1986. The “cash in hand” is **preprinted standard language** on the real-estate forms, not a representation that the defendants actually paid with cash money as opposed to paying by check or other negotiable instrument.
40. Judge Black stated from the bench at the end and included in another statement, that the Defendants were not appearing *specifically* but were appearing *generally*, and said so without any backup proof that the Defendants are any other than as affirmed under 28 U.S.C., Section 1654, 1746(1) in their THIRD NOTICE AND DEMAND FOR MANDATORY JUDICIAL NOTICE. (Doc. 136)
41. *“Thus, where the Congress prohibits the commencement of a civil action unless certain specific acts are performed, this court has no jurisdiction over the subject matter until the requisite conditions are met in fact and such compliance is shown by the pleadings and, where necessary, established by proof. ... [B]ut the mere allegation of facts necessary for jurisdiction without supporting proof is fatally defective. ... This court holds that 26 U.S.C. Section 7401 requirements constitute specifically denied is fatal to the maintenance of this action. USA v. One 1972*

Cadillac Coupe De Ville, 355 F.Supp. 513, 515 (1973) (Defendants Memorandum of law supporting second motion to dismiss page 2).

42. At the SHOW CAUSE HEARING, on April 18th in Albuquerque, New Mexico, it was obvious that Judge Black had not read any of the pleadings. Judge Black's lack of knowledge about the issues and lack of interest in learning the issues demonstrates that he has made a foregone conclusion as to the outcome of this matter.
43. Plaintiff has FAILED to exhibit proof that he has complied with the **FEDERAL REGISTER ACT, (FRA), 44 USC 1501**, the **ADMINISTRATIVE PROCEDURE ACT, (APA), 5 USC 551**, and the **PAPERWORK REDUCTION ACT, (PRA), 44 USC 3501**. No evidence is before the court that Plaintiff has complied with these laws.
44. Plaintiff alleged in interrogatories, (Defense Exhibits AA-AD), that exhibiting the statute and regulations creating "kind of tax 1040", required to be published in the **FEDERAL REGISTER, 44 USC 1501 et. seq.**, would have been over-burdensome, that the question was too vague, and over-broad. (See Defense Exhibits AA-AD attached to Defendants Opposed Motion for plaintiff to Appear and Show Cause, Doc. 45)
45. Because the Internal Revenue Service is not in compliance with the FRA, the APA, and the PRA, no person can be deprived of money or property, and all of the Plaintiff's COMPLAINT and pleadings are moot for lack of compliance with the law.

46. CONVERSION BY ESTOPPEL. "A judicial determination that a conversion has taken place – though in truth one has not – because a defendant is estopped from offering a defense". Black's Law Dictionary
47. CONVERSION, Tort & Criminal Law. "The wrongful possession or disposition of another's property as if it were one's own; an act or series of acts of willful interference, without lawful justification, with an item of property in a manner inconsistent with another's right, whereby that other person is deprived of the use and possession of the property." Black's Law Dictionary.

CONCLUSIONS OF LAW

1. The Internal Revenue Code has **NEVER** been enacted as positive law.
2. **Internal Revenue Code Section 7851 explicitly states " (6) Subtitle F**
(a) GENERAL RULE. - The provisions of subtitle F shall take effect on the
day after the date of enactment of this title and shall be applicable with
respect to any tax imposed by this title." (emphasis added)
3. **Internal Revenue Code** sections cited by Plaintiff as authority to bring this case, IRC 7402 and 7403, in COMPLAINT, are found in **Subtitle F**.
4. **Internal Revenue Code** section **6203** and supporting regulations at **26 CFR 301.6203-1** require that the **CERTIFICATE OF ASSESSMENT** must be signed by a duly designated Assessment Officer on the date of assessment.
5. **34 American Jurisprudence 2nd, 70476, page 678** is a reliable source of information about the law. Judge Black alleged from the bench that American Jurisprudence is **not** a reliable source of information about the law. Lawyers constantly consult and cite American Jurisprudence.

6. **Internal Revenue Code section 6020**, and supporting regulation does not authorize the Internal Revenue Service to file “substitute for returns” for Form 1040. The use of “substitute for returns” against the Defendants is illegal. See *Internal Revenue Manual [5.1] 11.9 (05-27-1999) IRC 6020(b) Authority*. Section 6020 is also found in **Subtitle F**. (See number 2 above).
7. **Treasury Decision 2313**, defining the decision in *Brushaber v. Union Pacific Railroad Co.* 240 U.S. 1 (1916) for internal revenue personnel, confirms the INTERNAL REVENUE CODE is municipal law, with no territorial jurisdiction inside the 50 States of the Union.
8. There is **no** statutory authority for “kind of tax 1040” in evidence before this court. **None exists.**
9. There is **no** regulatory authority for “kind of tax 1040” in evidence before this court. **None exists.**
10. **Internal Revenue Code section 6331(a)** explicitly names only federal employees as to whom “levy and distraint” is applicable. Interestingly enough section 6331 is also found in **Subtitle F**. (See # 2 above).
11. The Paperwork Reduction Act requires IRS Form 1040 to have a valid control number otherwise it is a “bogus” document and **44 USC Section 3512** protects all persons who do not fill out and submit a “bogus” form.
12. The **United States** [sic] can be enjoined to prevent the destruction of a business which might otherwise occur as a direct consequence of enforcing the assessment and/or collection of “income taxes”. See specifically *John M. Hirst & Co. v.*

Gentsch, 133 F.2d. 247 (6th Cir., 1943), Midwest Haulers v. Brady, 128 F2d. 496 (6th Cir., 1942), and Long v. United States, 148 F.Supp. 758 (1957).

13. The FEDERAL REGISTER ACT protects the public 44 USC 1507.

“A document required to be published in the Federal Register is not valid as against a person who has not had actual knowledge of it until the duplicate originals or certified copies of the document have been filed with the Office of the Federal Register and a copy made available for public inspection.

14. Internal Revenue Form 1040 has never been published in the Federal Register and therefore has no general applicability and carries no penalties as to any person.

15. The ADMINISTRATIVE PROCEDURE ACT protects the public, 5 USC 552(a)(1).

“... a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published.”

16. The PAPERWORK REDUCTION ACT protects the public, 44 USC 3512.

“Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain or provide information to any agency if the information collection request involved was made after December 31, 1981, and does not display a current control number assigned by the Director of OMB, or fails to state that such request is not subject to this chapter.”

17. **NMSA 58-13A-7**, Unlawfully aiding and abetting the crime of conversion.

“ No person shall, directly or indirectly:

- A. Cheat or defraud, or attempt to cheat or defraud, any other person or employ any device, scheme or artifice to defraud any other person;
- B. Make any false report, enter any false record or make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;
- C. Engage in any transaction, act, practice or course of business, including without limitation, any form of advertising or solicitation which operates or would operate as a fraud or deceit upon any person;”

Respectfully submitted,

Dated:

November 13, 2006

John S. Williamson, in Propria
John S. Williamson, in Propria Persona
ALL RIGHTS EXPLICITLY RESERVED
UNDER ALL FORMS OF LAW U.C.C. 1-207

Nancy L. Williamson, in Propria
Nancy L. Williamson, in Propria Persona
ALL RIGHTS EXPLICITLY RESERVED
UNDER ALL FORMS OF LAW U.C.C. 1-207

John G. Williamson, in Propria
John G. Williamson, in Propria Persona
ALL RIGHTS EXPLICITLY RESERVED
UNDER ALL FORMS OF LAW U.C.C. 1-207

David A. Williamson, in Propria
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Garrett J. Williamson, in Propria
Garrett J. Williamson, in Propria Persona
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Deborah Kruhm, in Propria
Deborah Kruhm, in Propria Persona
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UNDER ALL FORMS OF LAW U.C.C. 1-207

CERTIFICATE OF SERVICE

It is hereby certified that on the 13th day of November 2006, I mailed the foregoing PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW by U.S. Postal Service mail in a prepaid envelope to:

Waymon G. DuBosc, Jr.

717 N. Harwood St., Suite 400

Dallas, Texas 75201

Dated: November 13, 2006

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John S. Williamson, in Propria Persona

John S. Williamson, in Propria Persona